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December 13, 2004

Coyote Valley Specific Plan Task Force
City of San Jose
801 North First Street
San Jose, CA 95110

Re: Potential School Sites

Dear Task Force Members:

This office represents the Morgan Hill Unified School District (the "District"). The District is very concerned about the size of school sites currently proposed in the Coyote Valley Specific Plan. As the District has explained in the past, the proposed sites do not meet the State's guidelines for new facilities. The District urges this Task Force to enlarge the proposed school sites to meet the minimum requirements to ensure the educational excellence of the District and the future residents of Coyote Valley.

STATE SITE GUIDELINES

When constructing new facilities, California school districts are required to comply with the California Code of Regulations ("CCRs"), Title 5, Section 14000 et seq. and the 2000 Edition, "School Site Analysis and Development" published by the California Department of Education. "The net usable acreage and enrollment for a new school site shall be consistent with the numbers of acres and enrollment established in the 2000 Edition, "School Site Analysis and Development" published by the California Department of Education." 5 CCRs section 14010(a). The "School Site Analysis and Development" requires a minimum of 6.1 useable acres for up to 600 students in grades one (1) through three (3), a minimum of 11.1 useable acres for up to 600 students in grades four (4) through six (6), a minimum of 15.3 useable acres for up to 900 students in grades six (6) through eight (8) (the minimum required increases to 19.9 acres for 1,200 students), and a minimum of 55.7 useable acres for up to 2,400 students in grades nine (9) through twelve (12). The proposed sites in the Coyote Valley Specific Plan are far less than those minimum standards.

These guidelines are strict guidelines which must be followed unless certain circumstances exist which justifies an exception. Those circumstances are outlined in Title 5, Section 14010(a) of the CCRs (a copy of which is attached hereto). Those exceptions do not apply in the matter of the Coyote Valley Specific Plan. Accordingly, the minimum standards must be followed.

Despite the clear language of the State requirements, the Task Force and the City have ignored this information and the suggestions of the District. Rather, you have chosen to risk the well being of our students. This is an opportunity for the City of San Jose to plan an undeveloped area of the City for the best interests of all of its future residents and businesses. A critical factor to residential success is the quality of the schools. School excellence cannot be expected on substandard sites. The interests of our children should not be compromised. Because this project would not meet any of the exceptions in the CCRs, the minimum standards for school sites must be used.

More importantly, good judgment must be used to give our children the best education possible. The people charged with educating our children have provided information directly to this Task Force which contradicts the Task Force's assumptions and expectations. That information has been compiled by the people who work in the educational field everyday and are uniquely aware of the needs of students and school districts. Do not second guess the years of experience and education that has been provided to you. To do so would only jeopardize our children's futures. The District urges you to design school sites in accordance with the School Site Analysis and Development standards to ensure the continued excellence of our schools.

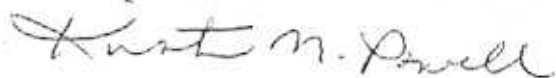
PRIOR AGREEMENTS TO WORK WITH THE DISTRICT

As you may be aware, the District is now completing the construction of its second comprehensive high school, Ann Sobrato High School, which is located in the City of Morgan Hill. It was an amazingly long process to get to the point of building a desperately needed second high school. Part of that process included a legal challenge filed by the City of San Jose. In a settlement between the District, the City of San Jose and the City of Morgan Hill, the City of San Jose agreed to work with the District to develop a third high school in Coyote Valley. We see the specific plan process as that opportunity for the District and the City of San Jose to work together to develop a third high school and other needed schools in Coyote Valley. In order to work together, the City of San Jose and the District must share their individual expertise and determine what is in the best interest of the future students of Coyote Valley. The District welcomes the opportunity to work one-on-one with the City to develop the school sites for the high school, middle schools and

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elementary schools that will be needed to serve the future residents of Coyote Valley. Without a cooperative and interactive process, the students of Coyote Valley will suffer and ultimately, Coyote Valley will suffer. The City of San Jose cannot expect to draw thousands of residents to an area with substandard school sites. We urge the City of San Jose to work with the District's leaders to meet the needs of our future students.

Very truly yours,



Kirsten M. Powell

KMP:sw
enclosure

cc: Carolyn McKennan
Board of Education

Westlaw

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 5 CCR § 14010
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**BARCLAYS OFFICIAL CALIFORNIA CODE
 OF REGULATIONS
 TITLE 5. EDUCATION
 DIVISION 1. CALIFORNIA DEPARTMENT
 OF EDUCATION
 CHAPTER 13. SCHOOL FACILITIES AND
 EQUIPMENT
 SUBCHAPTER 1. SCHOOL HOUSING
 ARTICLE 2. SCHOOL SITES**

This database is current through 11/26/2004,
 Register 2004, No. 48.

§ 14010. Standards for School Site Selection.

All districts shall select a school site that provides safety and that supports learning. The following standards shall apply:

(a) The net usable acreage and enrollment for a new school site shall be consistent with the numbers of acres and enrollment established in the 2000 Edition, "School Site Analysis and Development" published by the California Department of Education and incorporated into this section by reference, in toto, unless sufficient land is not available or circumstances exist due to any of the following:

(1) Urban or suburban development results in insufficient available land even after considering the option of eminent domain.

(2) Sufficient acreage is available but it would not be economically feasible to mitigate geological or environmental hazards or other site complications which pose a threat to the health and/or safety of students and staff.

(3) Sufficient acreage is available but not within the attendance area of the unhoused students or there is an extreme density of population within a given attendance area requiring a school to serve more students on a single site. Choosing an alternate site would result in extensive long-term bussing of students that would cause extreme financial hardship to the district to transport

students to the proposed school site.

(4) Geographic barriers, traffic congestion, or other constraints would cause extreme financial hardship for the district to transport students to the proposed school site.

(b) If a school site is less than the recommended acreage required in subsection (a) of this section, the district shall demonstrate how the students will be provided an adequate educational program including physical education as described in the district's adopted course of study.

(c) The property line of the site even if it is a joint use agreement as described in subsection (a) of this section shall be at least the following distance from the edge of respective power line easements:

(1) 100 feet for 50-133 kV line.

(2) 150 feet for 220-230 kV line.

(3) 350 feet for 500-550 kV line.

(d) If the proposed site is within 1,500 feet of a railroad track easement, a safety study shall be done by a competent professional trained in assessing cargo manifests, frequency, speed, and schedule of railroad traffic, grade, curves, type and condition of track need for sound or safety barriers, need for pedestrian and vehicle safeguards at railroad crossings, presence of high pressure gas lines near the tracks that could rupture in the event of a derailment, preparation of an evacuation plan. In addition to the analysis, possible and reasonable mitigation measures must be identified.

(e) The site shall not be adjacent to a road or freeway that any site-related traffic and sound level studies have determined will have safety problems or sound levels which adversely affect the educational program.

(f) Pursuant to Education Code sections 17212 and 17212.5, the site shall not contain an active

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earthquake fault or fault trace.

(g) Pursuant to Education Code sections 17212 and 17212.5, the site is not within an area of flood or dam flood inundation unless the cost of mitigating the flood or inundation impact is reasonable.

(h) The site shall not be located near an above-ground water or fuel storage tank or within 1500 feet of the easement of an above ground or underground pipeline that can pose a safety hazard as determined by a risk analysis study, conducted by a competent professional, which may include certification from a local public utility commission.

(i) The site is not subject to moderate to high liquefaction or landslides.

(j) The shape of the site shall have a proportionate length to width ratio to accommodate the building layout, parking and playfields that can be safely supervised and does not exceed the allowed passing time to classes for the district.

(k) The site shall be easily accessible from arterial roads and shall allow minimum peripheral visibility from the planned driveways in accordance with the Sight Distance Standards established in the "Highway Design Manual," Table 201.1, published by the Department of Transportation, July 1, 1990 edition, and incorporated into this section by reference, in toto.

(l) The site shall not be on major arterial streets with a heavy traffic pattern as determined by site-related traffic studies including those that require student crossings unless mitigation of traffic hazards and a plan for the safe arrival and departure of students appropriate to the grade level has been provided by city, county or other public agency in accordance with the "School Area Pedestrian Safety" manual published by the California Department of Transportation, 1987 edition, incorporated into this section by reference, in toto.

(m) Existing or proposed zoning of the surrounding properties shall be compatible with schools in that it would not pose a potential health or safety risk to students or staff in accordance with Education Code Section 17213 and Government

Code Section 65402 and available studies of traffic surrounding the site.

(n) The site shall be located within the proposed attendance area to encourage student walking and avoid extensive bussing unless bussing is used to promote ethnic diversity.

(o) The site shall be selected to promote joint use of parks, libraries, museums and other public services, the acreage of which may be included as part of the recommended acreage as stated in subsection (a) of this section.

(p) The site shall be conveniently located for public services including but not limited to fire protection, police protection, public transit and trash disposal whenever feasible.

(q) The district shall consider environmental factors of light, wind, noise, aesthetics, and air pollution in its site selection process.

(r) Easements on or adjacent to the site shall not restrict access or building placement.

(s) The cost and complications of the following shall be considered in the site selection process and should not result in undue delays or unreasonable costs consistent with State Allocation Board standards:

(1) Distance of utilities to the site, availability and affordability of bringing utilities to the site.

(2) Site preparation including grading, drainage, demolition, hazardous cleanup, including cleanup of indigenous material such as serpentine rock, and off-site development of streets, curbs, gutters and lights.

(3) Eminent domain, relocation costs, severance damage, title clearance and legal fees.

(4) Long-term high landscaping or maintenance costs.

(5) Existence of any wildlife habitat that is on a protected or endangered species list maintained by any state or federal agency, existence of any wetlands, natural waterways, or areas that may

5 CA ADC § 14010
5 CCR § 14010
Cal. Admin. Code tit. 5, § 14010

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support migratory species, or evidence of any environmentally sensitive vegetation.

(i) If the proposed site is on or within 2,000 feet of a significant disposal of hazardous waste, the school district shall contact the Department of Toxic Substances Control for a determination of whether the property should be considered a Hazardous Waste Property or Border Zone Property.

(u) At the request of the governing board of a school district, the State Superintendent of Public Instruction may grant exemptions to any of the standards in this section if the district can demonstrate that mitigation of specific circumstances overrides a standard without compromising a safe and supportive school environment.

Note: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17212, 17212.5, 17213, 17251(b) and 17251(f), Education Code.

HISTORY

1. Renumbering of former section 14010 to section 14011 and new section filed 11-12-93; operative 12-13-93 (Register 93, No. 46). For prior history, see Register 77, No. 39.

2. Amendment of section and Note filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CA ADC § 14010
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